

REMARKS

Claims 1-4, 9-11, and 15-20 stand rejected under 35 USC §103(a) as being unpatentable over Powell '696. Applicant respectfully submits that Powell '696 fails to establish a *prima facie* case of obviousness.

Applicant's claim 1 is directed to a drum lock apparatus and has numerous structural limitations directed thereto which are neither found nor suggested within the Powell '696 reference. Applicant's claim 1 specifically sets forth a first engagement member defined by either a base member or a cover member. The Powell reference fails to teach or suggest this structure. Further, the first engagement member is stated to be adapted for securing to the rim of a drum. Again, there is no structure or teaching of a cover member or any portion of the apparatus set forth and described in Powell that would facilitate a locking mechanism for a drum rim.

Similarly, there is no teaching of a second engagement member in Powell nor is there a teaching of the second engagement member, or any structure for that matter, secured to a rim of a drum.

Further, the first and second engagement members as set forth in claim 1 may be reversibly positioned from an unlocked position to a locked position. Such a feature or capability is neither described, disclosed, nor suggested within the Powell reference.

In addition, claim 1 claims a solenoid within the housing which secures the engagement members in a locked position. As stated previously, the Powell reference discloses neither a first nor a second engagement member nor a solenoid within the housing. As set forth in Applicant's claim 1, the solenoid engages at least one of the engagement members to maintain the engagement members in a locked position. Powell neither discloses a solenoid, nor discusses any physical structure that secures the apparatus to a container such as a drum and which physically prevents the opening of the drum or similar container.

Given the numerous structural limitations and functional features for which there is no corresponding structure, teaching, or suggestion found within Powell, Applicant respectfully submits that the claims are not rendered unpatentable by Powell and thus are in condition for allowance.

With respect to claim 2, Applicant respectfully points out that there is no structure corresponding to a third engagement member taught or suggested by Powell.

With respect to claim 3, Applicant respectfully submits that the Powell reference discloses no solenoid within a housing structure nor a power source in communication with the solenoid and therefore fails to render obvious Applicant's claimed subject matter.

With respect to claim 9, Applicant respectfully points out that the Powell reference fails to disclose a single bracket or a plurality of brackets which can be used to secure a panel to a cargo drum. Further, claim 9 specifically sets forth brackets having lips positioned below the panel and adapted for engaging an upper rim of a cargo drum. These physical structures are not set forth in Powell. Further, Powell fails to teach or suggest any physical locking mechanism associated with a structure placed onto a cargo item such as a drum lid. Accordingly, Applicant respectfully submits that the Powell reference fails to render unpatentable the subject matter set forth in claim 9.

Dependent claim 10 sets forth additional subject matter including a switch which detects removal of the security apparatus from the cargo surface. Applicant respectfully submits that no corresponding structure or function is taught or suggested within the Powell reference and that claim 10 is patentable over the Powell reference.

With respect to independent claim 15, claim 15 contains limitation directed to a first engagement arm and a second engagement arm which are defined by a base member or a cover member of a security apparatus. The teachings of Powell disclose a rectangular housing 20 on which there are no engagement arms or physical structures designed to engage with an edge or rim of a drum or other cargo structure. Since Powell fails to teach or suggest any type of engagement structure or arms extending from the security apparatus, it is respectfully submitted that claim 15 is allowable over Powell.

With respect to claim 16, it is respectfully submitted that Powell fails to disclose or suggest first and second engagement arms having resilient arcuate edge termini for engaging the rim of a drum. Powell provides for no first engagement arm, no second engagement arm, and has no teachings or suggestions with respect to arcuate edge

portions for engaging the rim of a drum or other cargo container. Accordingly, Applicant respectfully submits that claim 16 is allowable over the rejection of record.

With respect to dependent claims 17 and 18, Applicant respectfully submits that the claimed subject matter again contains limitation directed to first and second engagement arms having arcuate edges which can be used to secure the security apparatus to a drum. Further, claim 18 is directed to a third engagement arm which is neither taught nor suggested by Powell. Accordingly, Applicant respectfully submits that the subject matter of claims 17 and 18 is also patentable over the disclosure of Powell.

Further, Applicant respectfully submits that dependent claims 2-4, 10-11, and 16-20 all depend from allowable independent claims and are therefore, for at least that reason, in condition for allowance.

Claims 5-8 and 12-14 stand rejected under 35 USC §102(b) as being anticipated by Eberhard '322. Applicant has amended claim 5 to reflect that the security apparatus now claimed has first and second engagement arms which extend radially from the housing. Further, a free end of each engagement arm defines a lip which is positioned below a plane of a base member with each lip providing an engaging surface for an edge portion of a transported cargo item. Applicant respectfully submits that the Powell reference does not teach or suggest any use of engagement arms or placement of engagement arms or engagement lips which extend below a plane of the base member nor that such lips are adapted for engaging an edge portion of a transported item. Accordingly, Applicant respectfully submits that claim 5 and the dependent claims thereon are now in condition for allowance inasmuch that such structures set forth in the amended claim are not anticipated by Eberhard.

With respect to the rejection of claims 12-14, as anticipated by Eberhard, Applicant respectfully submits that the rejection is improper. Claims 12-14 depend either directly or indirectly from claim 9. Since claims 12-14 depend from claim 9, it is unclear how dependent claims can be rejected when there is no rejection by a §102 reference of the independent claim 9.

In an effort to advance prosecution of this matter, Applicant does point out that the Eberhard reference does not anticipate the subject matter of claim 9 since Eberhard

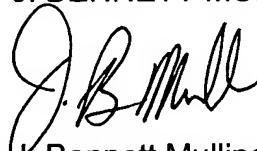
fails to teach or disclose a panel having an outer perimeter of attachment surfaces, the plurality of brackets, or plurality of lips associated with the brackets and adapted for engaging a rim of a cargo drum. The structure set forth in Eberhard is designed to be portable and is not permanently attached nor provides a structural locking mechanism for a cargo container such as a drum. Accordingly, Applicant respectfully submits that claims 12-14 are not anticipated by Eberhard given the number of structural limitations which are not disclosed by Eberhard.

Inasmuch as all outstanding issues raised by the Examiner have been addressed, it is respectfully submitted that the present application is in condition for allowance, and action to such effect is earnestly solicited. The Examiner is encouraged to telephone the undersigned at his/her convenience should only minor issues remain after consideration of the present Amendment, to permit early resolution of same.

Please charge any additional fees required by this Amendment to Deposit Account No. 50-3172.

Respectfully submitted,

J. BENNETT MULLINAX, LLC

A handwritten signature in black ink, appearing to read 'J. B. Mullinax', written in a cursive style.

J. Bennett Mullinax
Reg. No. 36,221